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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Human Rights Now Strongly Protests the Recent Killing of Palestinian Civilians along the Gaza-Israeli Border

Human Rights Now, a Tokyo-based human rights NGO, expresses grave concern over the recent killings of Palestinian demonstrators by Israel Defense Forces (IDF) along the Gaza border. Israeli authorities must abide by their international obligations under international human rights law and humanitarian law and should immediately end the excessive use of force against Palestinian protesters, ensure accountability, and prevent future occurrences of excessive force.

1. More than 100 Palestinians Killed by the IDF along the Gaza-Israeli Border Since March

On 30 March 2018, Palestinians began a series of mass demonstrations protesting US President Trump's decision to relocate the US Embassy in Israel to Jerusalem and the long-term blockade of Gaza. Demonstrators approaching the Gaza border were met with grossly disproportionate force by the IDF, which killed more than 100 Palestinians and injured 1000s more in the weeks that followed, in some cases using live ammunition.[1]

Mass demonstrations on May 14, the date of the new US embassy's inauguration, reportedly involved around 40,000 Palestinian demonstrators[2] and led to at least 60 Palestinian demonstrators reportedly killed by the IDF.[3] HRN has strongly protested the US decision to move its embassy as a violation of several UN Security Council Resolutions,[4] and we continue to strongly protest it as a root cause of the present violence. Altogether, the Office of the High Commissioner for Human Rights reported that 112 Palestinians have been killed,[5] and more than 12,000 injured, since 30 March.[6]

2. Disproportionate Use of Force by the IDF

IDF soldiers are reportedly permitted under their rules of engagement to fire with live ammunition on individuals who attempt to damage the fence or who approach within as little as 100m of it.[7] Palestinian health officials also reported that Israeli forces have used mostly gunfire, in addition to tear gas and rubber bullets.[8] And an IDK spokesman also

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1 UNSC Press Release, "Security Council Members Condemn Killing of Palestinian Civilians in Clashes at Israel-Gaza Border after Peaceful Protest Turned Violent", 30 March 2018, SC/13273, https://www.un.org/press/en/2018/sc13273.doc.htm.

2 Washington Post, "Israelis kill more than 50 Palestinians in Gaza protests, health officials say", 14 May 2018, https://www.washingtonpost.com/world/middle_east/gaza-protests-take-off-ahead-of-new-usembassy-inauguration-in-jerusalem/2018/05/14/eb6396ae-56e4-11e8-9889-07bcc1327f4b_story.html?utm_term=.379b635fedd2.

3 Reuters, "Israeli forces kill two Palestinians near border as Gaza buries dead", 15 May 2018, https://www.reuters.com/article/us-israeli-palestinians/israeli-forces-kill-two-palestinians-near-border-as-gaza-buries-dead-idUSKCN1IG1A7

4 HRN, "HRN strongly protests the announcement made by the United States of America to move the Israeli Embassy and urges the US to withdraw its decision", 8 December 2018, http://hrn.or.jp/eng/news/2017/12/08/us-decision-on-jerusalem-statement/.

5 OHCHR, "Press briefing notes on Gaza, Burundi and Myanmar", 15 May 2018, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23086&LangID=E.

6 OHCHR, "Special Session of the Human Rights Council on the deteriorating human rights situation in the Occupied Palestinian Territory, including East Jerusalem – Statement by the UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein, 18 May 2018, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23100&LangID=E.

7 NY Times, "300 Meters in Gaza: Snipers, Burning Tires and a Contested Fence", 15 May 2018, https://www.nytimes.com/interactive/2018/04/13/world/middleeast/gaza-fence-aerial.html.

8 Reuters, "Israeli forces kill 16 Palestinians in Gaza border protests: Gaza medics", 30 March 2018, https://www.reuters.com/article/us-israel-palestinians-protests/israeli-forces-kill-16-palestinians-in-gaza-border-protests-gaza-medics-idUSKBN1H60AV.

admitted on May 15 that Israel failed to minimize the number of Palestinian casualties and that some Palestinians "that weren't the target" were hit by gunfire.[9] A number of NGOs in Israel petitioned its High Court of Justice on May 1 to change the IDF's rules of engagement, charging that the rules permit live fire at protesters classified by the IDF as "key participants in the riots", even when these individuals do not immediately threaten the security of the IDF.[10]

3. Violations and Inconsistencies with International Law and Principles

The use or ordering of disproportionate lethal force by IDF soldiers against Palestinian demonstrators would, if verified, contravene Israel's ICCPR duties to respect their rights to life, peaceful assembly, association, and expression.[11] Responding to the violence, the High Commissioner for human rights similarly stated that "Palestinians' right to life, their right to security of the person and rights to freedom of assembly and expression must be respected & protected."[12]

Furthermore, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials hold that preference should be given to "non-violent means" when policing protests, and that when lawful use of firearms is unavoidable, officials should "act in proportion to the seriousness of the offence" and "minimize damage and injury."[13] IDF soldiers using firearms and lethal force to respond to demonstrators approaching the border fence and using reportedly limited, non-lethal force is disproportionate and contravention of these principles. In a May 18 statement, the High Commissioner for Human Rights also stated that "[k]illings resulting from the unlawful use of force by an occupying power may also constitute 'willful killings' - a grave breach of the Fourth Geneva Convention", referring to article 147.[14]

4. Calls for Accountability

The Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory occupied since 1967, Michael Lynk, condemned Israel's excessive use of force towards largely unarmed demonstrators and called for "true accountability" to those who ordered or allowed the excessive use of force.[15] To that end, the Human Rights Council voted on 18 May 2018 to dispatch an "independent, international commission of inquiry" to investigate what it called "military assaults" on Palestinian protesters.[16] The Prosecutor of the ICC further stated on 8 April 2018 that her office was watching the situation closely, that the Palestine situation is under preliminary examination by the ICC, and that

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9 Uri Blau, "Top IDK Spokesperson tells U.S. Jews: Israel Failed to Minimize Gaza Casualties, Hamas Won PR War by Knockout", Haaretz, 17 May 2018, https://www.haaretz.com/middle-east-news/palestinians/.premium-hamas-won-pr-war-we-failed-on-gaza-casualties-admits-israeli-spokesperson-1.6094562.

10 The Association for Civil Rights in Israel, "Human Rights Organizations Petition High Court against Shooting along Gaza Border", 16 May 2017, https://www.acri.org.il/en/2018/05/16/human-rights-organizations-petition-high-court-against-shooting-along-gaza-border/.

11 UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171, Arts. 6, 21, & 22, http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf.

12 UN Human Rights, Twitter, 18 May 2018, https://twitter.com/UNHumanRights/status/997394882137346048.

13 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 7 September 1990, Arts. 4 & 5, http://www.ohchr.org/Documents/ProfessionalInterest/firearms.pdf.

14 OHCHR, "Special Session of the Human Rights Council on the deteriorating human rights situation in the Occupied Palestinian Territory, including East Jerusalem – Statement by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein", 18 May 2018, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23100&LangID=E; International Committee of the Red Cross, Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287, Art. 147, https://ihl databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5.

15 OHCHR, "UN human rights expert condemns horrific violence in Gaza", 15 May 2018, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23087&LangID=E.

16 HRC Resolution S-28/1, "Violations of international law in the context of large-scale civilian protests in the Occupied Palestinian Territory, including East Jerusalem", A/HRC/RES/S-28/1, 18 May 2018, http://www.ohchr.org/EN/HRBodies/HRC/SpecialSessions/Session28/Pages/28thSpecialSession.aspx.

violence against civilians, as is prevailing in Gaza, could constitute crimes under the Rome Statute of the ICC, as could the use of civilians to shield military activities.[17]

Allegations of disproportional use of lethal force by the IDF must be investigated, offending persons must be held accountable, and victims must receive redress from the Israeli government.

5. Recommendations

HRN expresses deep concern over the serious human rights violations against the Palestinian people and the excessively lethal response by Israeli authorities to the recent demonstrations along the Gaza-Israeli border.

HRN calls on the Israeli government to:

- Respect the fundamental human rights to life and peaceful protest of Palestinian demonstrators;
- Launch an independent and effective investigation into all incidents resulting in death or injuries of Palestinian protesters and, in cases of excessive use of force, bring those responsible to justice;
- Co-operate fully with the investigation commissioned by the Human Rights Council into alleged violations of international law since 30 March 2018;
- Effectively investigate and repeal any rules of engagement which permit the use of lethal force against persons not posing imminent danger;
- Cease all violations of international criminal law, international human rights, and humanitarian law against Palestinian people and take measures to prevent future violations.

HRN calls on the US government to:

- Reverse its decision to relocate its embassy to Jerusalem.

HRN further requests the international community to:

- Support efforts for justice and accountability for perpetrators of human rights abuses against Palestinians, especially by the IDF;
- Actively work towards a political solution for Palestine in accordance with international law.

17 ICC, "Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, regarding the worsening situation in Gaza", 8 April 2018, https://www.icc-cpi.int/Pages/item.aspx?name=180408-otp-stat.